

(251) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1238-2020
Date of Decision: 09.02.2023

BALWINDER SINGH
Versus
... Petitioner

PALWINDER SINGH
...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sultan Singh Gill, Advocate
for the petitioner.

Mr. B.S. Randhawa, Advocate
for the respondent.

JASJIT SINGH BEDI, J.

The present revision petition has been filed against the judgment dated 01.08.2016 passed by the Additional Sessions Judge, Amritsar, vide which the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 01.12.2014 passed by the Judicial Magistrate, 1st Class, Ajnala has been dismissed.

2. The brief facts of the case are that the petitioner faced trial in criminal Complaint No.88/2010 dated 05.04.2010 titled as 'Palwinder Singh Versus Balwinder Singh’ under Section 138 of the Negotiable Instruments Act and came to be convicted and sentenced as below:-

Name	Offence	Punishment	Fine	In Default
Balwinder Singh	138 NI Act	R.I. 01 year	Rs.2,80,000/-	--

3. Aggrieved against the said judgment of conviction and order of sentence, the petitioner preferred an appeal before the Additional Sessions Judge, Amritsar, which came to be dismissed on 01.08.2016.
4. Against the aforementioned judgments, the present revision petition has been preferred.
5. When this matter had come up for hearing on 18.12.2020, the following order was passed:-

“Case is taken up through Video Conferencing on account of COVID-2019.

CRM-27710-2020

This is an application filed under Section 5 of the Limitation Act for condonation of delay of 1232 days in filing the present criminal revision petition.

Learned counsel for the petitioner states that after passing of the judgment on 01.08.2016, the petitioner has suffered a bullet injury. He remained in a critical condition. Thereafter, there was a talk of the compromise with the complainant. Ultimately, a compromise dated 21.10.2020(Annexure P-2) was entered into with the complainant

In terms thereof, the petitioner has paid the entire amount to the complainant.

Learned counsel for the complainant states that he has no objection to the condonation of delay.

Accordingly, this application is allowed and the delay of 1232 days in filing the present criminal revision petition is condoned.

CRM-27711-2020

Prayer in the instant application filed under Section 397(1) read with Section 482 Cr.P.C is for suspension of

sentence of the petitioner-Balwinder Singh, during the pendency of the present revision petition.

Vide judgment and the order of sentence dated 01.12.2014 passed by Ld. Judicial Magistrate Ist Class, Ajnala, the petitioner has been convicted under Section 138 of the Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for one year and to pay Rs. 2,80,000/- as compensation to the respondent-complainant. The appeal against the said judgment and the order of sentence was dismissed by the Ld. Addl. Sessions Judge, Amritsar, vide order dated 01.08.2016. Thereafter, the matter has been compromised with the respondent-complainant. A copy of the said compromise has been annexed as Annexure P-2 with the main revision petition.

Keeping in view the fact that the matter has been compromised with the respondent-complainant, the present application is allowed. It is ordered that the remaining sentence of the petitioner-Balwinder Singh shall remain suspended during the pendency of this revision petition on his furnishing bail bonds and surety bonds to the satisfaction of the concerned Chief Judicial Magistrate/Duty Magistrate. CRR-1238-2020.

Adjourned to 15.04.2021.”

6. The learned counsel for the petitioner contends that a compromise has been arrived at between the parties as is borne out from Annexure P-2. Therefore, the offence can be compounded in terms of Section 147 of the Negotiable Instruments Act and the petitioner may be acquitted for having committed the offence in question.

7. The learned counsel for the complainant-respondent submits that a compromise has been effected between the parties and he has also filed an affidavit stating that he has received the amount in terms of the compromise

dated 21.10.2020 (Annexure P-2). The copy of the affidavit is marked as 'A'. He further contends that he has no objection if the offence is allowed to be compounded and the petitioner acquitted of the charges framed against him.

8. I have heard the learned counsel for both the parties.

9. This Court in 'Vatsa Electronics Vs. Pala Ram & Anr. decided on 09.03.2022 in CRR-1585-2019' has also held that once a settlement is being effected, then in terms of Section 147 of the Negotiable Instruments Act and Section 320 Cr.P.C., the accused ought to be acquitted as the offence stands compounded.

This Court in 'Ramesh Chander Vs. State of Haryana and another, 2007(1) RCR (Criminal) 245' held as under:-

“4. As per the provisions of Section 147 of the Act, the offence under Section 138 is compoundable. Section 147 reads as under:-

“Offence to be compoundable-

Notwithstanding anything contained in the Criminal Procedure Code, 1973(2 of 1974), every offence punishable under this Act shall be compoundable”.

5. The compounding of the offence under Section 138 can be done during the trial of the case as well as by the High Court or Court of Session while acting in the exercise of its power of revision under Section 401 Criminal Procedure Code Reference may be made to Section 320(6) Criminal Procedure Code in this regard.

6. Further, under Section 320(8) Criminal Procedure Code the composition of an offence shall have the effect of acquittal of the accused with whom the offence has been compounded.”

10. The admitted position is that the matter stands settled on the basis of the compromise/settlement between the parties (Annexure P-2).

11. In view of the above, since, the parties have voluntarily settled the disputes between themselves, it is a fit case for allowing them to compound the offence.

12. Accordingly, the revision petition is allowed and the judgment dated 01.08.2016 passed by the Additional Sessions Judge, Amritsar and the judgment of conviction and order of sentence dated 01.12.2014 passed by the Judicial Magistrate, 1st Class, Amritsar are hereby set aside. The petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

(JASJIT SINGH BEDI)
JUDGE

09.02.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No